

## COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT AMENDMENTS

SEPTEMBER 2, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[Including Cost Estimate of the Congressional Budget Office]

[To accompany S. 1414]

The Committee on Merchant Marine and Fisheries, to whom was referred the act (S. 1414) to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the act as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is amended—

(1) by striking out “and Guam” in section 2 and inserting in lieu thereof “Guam, and the Trust Territory of the Pacific Islands”;

(2) by inserting “initial” immediately after “receive an” in the second sentence of section 5(a);

(3) by amending section 5(b) to read as follows:

“(b) (1) Except as provided in paragraph (2) of this subsection, so much of any apportionment for any fiscal year to any State which is not obligated during such year remains available for obligation to that State to carry out the purposes of this Act until the close of the succeeding fiscal year, and, if unobligated at the end of that year, the funds shall not be considered thereafter to be apportioned to that State and shall remain available until expended to carry out the purposes of this Act as determined by the Secretary without regard to any provision of subsection (a) of this section.

“(2) If any State—

“(A) notifies the Secretary that it does not wish to receive all or any part of any funds apportioned to it for any fiscal year pursuant to subsection (a) of this section, or

“(B) returns to the Secretary funds received by it pursuant to any apportionment pursuant to such subsection (a),

such funds shall not be considered to be apportioned to that State and shall immediately be available, and remain available until expended, to carry out the purposes of this Act as determined by the Secretary without regard to any provision of such subsection (a). Any notification or return of funds made by any State pursuant to this paragraph is irrevocable." ; and

(4) by amending section 6(c)—

(A) by inserting "or where he otherwise deems it appropriate," immediately after "completed," in the first sentence ; and

(B) by striking out the second and third sentences thereof.

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1976.

Amend the title so as to read :

A bill to amend the Commercial Fisheries Research and Development Act of 1964 to change certain procedures in order to improve the operation of the programs under such Act and to make the Trust Territory of the Pacific Islands eligible to participate in such programs.

#### PURPOSE OF THE LEGISLATION

The purpose of the legislation is to change the procedures regarding the administration of the Commercial Fisheries Research and Development Act to provide for more efficient management of the programs carried out under the Act and to extend the coverage of the Act to enable the Trust Territory of the Pacific Islands to participate under its coverage.

#### LEGISLATIVE BACKGROUND

Two of the predecessor bills to S. 1414, H.R. 6275, by Mrs. Mink, and an identical bill, H.R. 9475, by Mr. Matsunaga, were introduced on April 22 and September 9, 1975, respectively. These bills would authorize the Trust Territory of the Pacific Islands to receive financial assistance under the Commercial Fisheries Research and Development Act.

Another predecessor bill to S. 1414, H.R. 10883, was introduced on November 26, 1975, by Mrs. Sullivan, and cosponsored by Mr. Leggett, Mr. Ruppe, Mr. Biaggi, Mr. Forsythe, Mr. de la Garza, Mr. Young of Alaska, Mr. Studds, and Mr. Lent. H.R. 10883 was introduced as a result of an Executive Communication, Number 2027, from the Department of Commerce. As introduced, H.R. 10883 would amend the Act to: (1) prevent funds apportioned to a State that are unused from reverting to the General fund of the Treasury and require such funds to remain available for other States to use; (2) allow States which have been initially apportioned the six percent maximum to use funds voluntarily released by other States; and (3) authorize advance payments to States on projects that have been approved by the Secretary.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment held hearings on the legislation on May 7, 1976.

The Department of Commerce, in its report on H.R. 6275 and H.R. 9475, had no objection to the legislation. The Department of Commerce strongly supported H.R. 10883 since it was introduced as a result of an Executive Communication from the Department.

S. 1414 passed the Senate May 21, 1976. As passed, the bill would merely extend the coverage of the Commercial Fisheries Research and Development Act to allow the Trust Territory of the Pacific Islands to participate under the Act.

After giving careful consideration to the testimony presented at the hearings and the Departmental reports, the Committee by voice vote unanimously ordered reported S. 1414, with amendments. This was accomplished by striking out all after the enacting clause and substituting new language and amending the title of the bill.

As ordered reported, S. 1414 retained the provision of H.R. 6275 and H.R. 9475 that would extend the coverage of the Act to the Trust Territory of the Pacific Islands. In addition, the bill included the provisions of H.R. 10883 that would: (1) require unused funds to remain available for other States to use; (2) allow States receiving the maximum six percent of the funds initially apportioned to use funds voluntarily released by other States; and (3) authorize advance payments to States on approved projects. Also, S. 1414 would amend the Act to make it clear that States would have the authority to return funds that were allotted to them and that for the first time States could refuse to receive funds and any funds returned or refused could be used by other States. Also, the bill, as rewritten, would make it clear that not only the six percent States, but States receiving less than six percent would be eligible to use funds turned in for reallocation. Finally S. 1414 would provide that the legislation take effect at the beginning of Fiscal Year 1977, rather than upon date of enactment.

The Committee unanimously ordered the bill reported.

#### BACKGROUND AND NEED FOR THE LEGISLATION

In 1964, the Congress enacted the Commercial Fisheries Research and Development Act, better known as Public Law 88-309. That Act authorizes the Secretary of Commerce to assist the 50 States, the Commonwealth of Puerto Rico, and the Governments of the Virgin Islands, Guam, and American Samoa in conducting programs intended for the enhancement of our Nation's commercial fisheries.

Section 4(a) of the Act authorizes to be appropriated \$5 million per year (through Fiscal Year 1978) to carry out the purposes of the Act. These Federal funds are apportioned among the States based on a formula which uses the value of the fish harvested and processed in each State as compared to all States. The Federal share of the cost of an approved project shall not exceed 75 percent of the total estimated cost of such project. The Act provides that no State may receive an apportionment for any fiscal year of less than one-half of one percent of funds to be apportioned or more than six percent of such funds.

S. 1414 would broaden the coverage of the Act to allow the Trust Territory of the Pacific Islands to participate under the Act. The Department of Commerce has determined that the Trust Territory of the Pacific Islands would receive the minimum amount authorized by the Act, which is one-half of one percent of the funds to be apportioned. Based on prior appropriations under the Act of \$3.8 million per year, the Department estimates the Trust Territory would receive \$19,000 each year.

Following is a table prepared by the Department of Commerce which sets forth the apportionment to the States for Fiscal Years 1976 and 1977, and which indicates the amount that is likely to be

deducted from each State's apportionment in order to allow for the Trust Territory of the Pacific Islands to participate under the Act:

CALCULATED APPORTIONMENT OF FUNDS UNDER THE "COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964" (PUBLIC LAW 88-309, AS AMENDED), FISCAL YEARS 1976 AND 1977

State and area	Allocation of funds to States		Impact of inclusion of Trust Territory of Pacific Islands as an Eligible Recipient under Public Law 88-309 <sup>1</sup>
	Fiscal year 1976	Fiscal year 1977	
Alabama	\$79,100	\$74,000	—\$874
Alaska	228,000	228,000	—
Arizona	19,000	19,000	—
Arkansas	25,000	31,300	—285
California	228,000	228,000	—
Colorado	19,000	19,000	—
Connecticut	19,000	19,000	—
Delaware	19,000	22,300	—
Florida	228,000	228,000	—
Georgia	75,800	65,900	—836
Hawaii	31,900	31,200	—361
Idaho	19,000	44,100	—
Illinois	19,000	19,000	—
Indiana	19,000	19,000	—
Iowa	19,000	19,000	—
Kansas	19,000	19,000	—
Kentucky	19,000	19,000	—
Louisiana	228,000	228,000	—
Maine	158,400	155,500	—1,767
Maryland	142,100	129,700	—1,577
Massachusetts	228,000	228,000	—
Michigan	19,000	19,000	—
Minnesota	19,000	19,000	—
Mississippi	112,800	110,500	—1,254
Missouri	22,300	20,300	247
Montana	19,000	19,000	—
Nebraska	19,000	19,000	—
Nevada	19,000	19,000	—
New Hampshire	32,300	27,800	—361
New Jersey	116,200	110,600	—1,292
New Mexico	19,000	19,000	—
New York	128,500	122,600	—1,425
North Carolina	45,500	46,500	—513
North Dakota	19,000	19,000	—
Ohio	50,000	48,600	—551
Oklahoma	19,000	19,000	—
Oregon	123,800	132,000	—1,368
Pennsylvania	83,700	79,600	—931
Rhode Island	27,400	24,600	—304
South Carolina	33,700	29,700	—380
South Dakota	19,000	19,000	—
Tennessee	19,000	19,000	—
Texas	228,000	228,000	—
Utah	19,000	19,000	—
Vermont	19,000	19,000	—
Virginia	132,400	130,200	—1,463
Washington	157,000	165,000	—1,748
West Virginia	19,000	19,000	—
Wisconsin	20,700	19,600	—228
Wyoming	19,000	19,000	—
American Samoa	111,400	107,000	—1,235
Guam	19,000	19,000	—
Puerto Rico	228,000	228,000	—
Virgin Islands	19,000	19,000	—
Trust Territory of the Pacific		19,000	+19,000
Total	3,800,000	3,800,000	

<sup>1</sup> Estimated amount, which could further slightly change when final data are available and final calculations are made, to be deducted from each State's shares. Remainder of States and territories receive either maximum (6 percent) or minimum (0.5 percent) amounts and would not be affected.

Note.—The maximum States are: Alaska, California, Florida, Louisiana, Massachusetts, Texas, and Puerto Rico. The minimum States are: Arizona, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wyoming, Guam, and the Virgin Islands.

The need for inclusion of Trust Territory of the Pacific Islands under the coverage of the Act can best be explained by excerpts from



the statements presented to the Committee by Mrs. Mink and Mr. Matsunaga.

Mrs. Mink stated:

. . . Mr. Chairman, I am sure that you and your colleagues are aware that this country accepted stewardship for the islands of the Trust Territory three decades ago with the pledge to the United Nations that we would develop the economy of the islands. To date, our performance has not been especially outstanding. While there is considerable growth in the fledgling tourist industry, the potential for agriculture and fisheries lies yet untapped.

Within the last few years, the Territorial Legislature, the Congress of Micronesia has taken the initiative to establish Fishing Authorities in each of the administrative districts of the Territory to spur development of the fisheries industry throughout this vast ocean area. As the Administering Authority for the Territory, we have the obligation to provide every measure of support we can where it is lacking. . . .

Shortly after I introduced my bill, I received a letter from the Chairman of the Executive Committee of Micronesian Fishing Authorities in support of the legislation. He said, in part: "As you probably know, fisheries has taken a back seat in the development programs of the Trust Territory Government, but prospects do not look promising without the assistance that could be forthcoming if your bill is passed and approved. At the moment, the fisheries programs account for about 1% of the total Trust Territory budget. What can we do with this amount? We need to build fisheries docks, reefers, and processing plants and purchase boats."

Mr. Matsunaga stated:

The 2,141 islands which together comprise the Trust Territory are obviously linked inescapably to the sea. Over the past several years, the Pacific Islands have concentrated great amounts of their precious resources in an effort to progress toward the development of the vast, untapped, marine resources that lie beneath the Pacific. The Trust Territory—like Guam, American Samoa, and my own State of Hawaii—has recognized the enormous economic potential of the Pacific. Our Nation's Pacific region, particularly the Trust Territory, has further recognized the need for extensive research and development of fisheries and the fishing industry, in order to foster the growth of a self-sufficient economy.

But, unlike these other areas, the Trust Territory has been denied participation in a Federal program designed specifically to foster this kind of growth.

The High Commissioner of the Trust Territory, Dr. Edward E. Johnston, has indicated that as a consequence, the Pacific Islands lack the sufficient funding for a sustained and concerted effort along these lines. The inclusion of the Trust Territory of the Pacific Islands in the Commercial Fisheries Research and Development Act would provide the necessary

funds that would enable the Pacific Islands to move steadily ahead in marine industry development.

Under present law, funds appropriated and apportioned to the States remain available for two fiscal years, after which time unobligated funds are returned to the U.S. Treasury. During fiscal years 1972-1974, about \$100,000 per year was returned to the U.S. Treasury. The bill would remove the reversionary feature of the Act, thereby making these funds available for other States to use.

The bill would also resolve the Department's budgeting and book-keeping problem associated with present law. The Department of Commerce witness testified that the two-year availability period of funds is in conflict with the Department's appropriation legislation which makes sums appropriated to the Department available until expended. This has resulted in budgeting and bookkeeping problems requiring the Department to keep two sets of books. The language of the bill that would eliminate the revisionary feature of the Act would also resolve this problem.

A further need for the legislation arises from the fact that a number of States have voluntarily released funds for reapportionment to other States. For example, in Fiscal Year 1975, the States of South Dakota, Connecticut, New Hampshire, and Ohio voluntarily released \$66,800. Since 1974, the NOAA General Counsel has ruled that apportioned funds which a State desires to release may be reapportioned to other States that have not received the maximum amount (six percent of the total apportionment) allowed under the Act.

The bill would eliminate this inequity by making it clear that all States, whether six percent States or not, would be eligible to use returned funds. The Committee feels that the ability to transfer these funds to other States would greatly increase program flexibility.

#### WHAT THE BILL DOES: SECTION-BY-SECTION ANALYSIS

As indicated in the legislative background of this report, the Committee ordered reported to the House S. 1414, with amendments. This was accomplished by striking out all after the enacting clause and substituting new language and amending the title to the bill.

##### SECTION 1

###### *Paragraph 1*

This paragraph would amend the definition of "State" as used in the Act to include the Trust Territory of the Pacific Islands. This would have the effect of allowing the Trust Territory to receive financial assistance in carrying out commercial fisheries research and development projects, along with American Samoa, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the 50 States.

###### *Paragraph 2*

Under section 5(a) of the Act, no State can receive more than six percent of the funds appropriated under section 4(a) of the Act. Appropriations under this section have amounted to \$3.8 million per year for the past several years. The language of this section has the effect of preventing a State, which has received an apportionment of six percent, from utilizing funds voluntarily released by another State.

Paragraph (2) would also add the word "initial" after the words "receive an" in this section, thereby making it clear the six percent States are eligible to utilize funds released by other States. Such released funds would be reapportioned among the States by the Secretary as he deems appropriate.

### *Paragraph 3*

Under section 5(b) of the Act, apportioned funds remain available to the States for two fiscal years, after which time unobligated funds are returned to the Treasury of the United States.

Paragraph (3) would rewrite section 5(b) to provide that any funds apportioned to a State that remain unobligated at the close of the succeeding fiscal year after which such sums are apportioned would not revert to the Treasury, but would remain available for other States to use in carrying out the purpose of the Act.

In addition, paragraph (3) would rewrite section 5(b) to authorize a State to notify the Secretary that it does not wish to receive all or any part of any funds to be apportioned to it or to return to the Secretary funds received by it that it does not plan to use. Funds turned back or not received by a State would no longer be considered to be apportioned to that State and would immediately become available for other States to use.

Although the NOAA General Counsel, Department of Commerce, ruled in 1974 that states receiving less than the maximum 6 percent are eligible to receive released funds, paragraph (3) would have the effect of incorporating this ruling into law, thereby making it clear that such states would have this right. Consequently, as the Act would be rewritten by this paragraph, all States whether they receive less than 6 percent of the funds initially apportioned or not, would be eligible to compete for these funds. These funds, as well as the returned funds, would be reapportioned among the various states as the Secretary, in his discretion, deems appropriate.

### *Paragraph 4*

Under section 6(c) of the Act, the Secretary is authorized to pay to the States the Federal share of approved projects upon their completion. In the alternative, the Secretary may make periodic payments on the project as they progress provided he determines the projects are being conducted in compliance with the approved plans and specifications.

The uniform method of making payments to the States of the Federal share of the cost of a project is by reimbursement by Treasury checks. Many of the States feel that this puts them at a disadvantage in that they must spend their own monies in carrying out a project. They feel that the availability of advance payments would be advantageous to them in obtaining State funds for matching purposes.

Paragraph (4) would rewrite section 6(c) of the Act to allow the Secretary to make advance payments to the States on approved projects whenever, in his discretion, he deems it appropriate.

## COST OF THE LEGISLATION

In the event the legislation is enacted into law, the Committee estimates it would result in no additional cost to the Federal Govern-

ment. This estimate is consistent with the estimate of costs submitted by the Department of Commerce.

#### COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives—

(A) No oversight hearings were held on the administration of this Act during this session of Congress, beyond the one day of hearings on the legislation held by the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The Subcommittee does plan to hold oversight hearings on the administration of this Act during the 95th Congress.

(B) Section 308(a) of the Congressional Budget Act of 1974 is not presently in effect. Therefore, no statement is furnished.

(C) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 2(b)(2) of rule X.

(D) An estimate and comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

The transmittal follows:

CONGRESS OF THE UNITED STATES,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., August 26, 1976.

HON. LEONOR K. SULLIVAN,  
*Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Suite 1334 Longworth House Office Building, Washington, D.C.*

DEAR MADAM CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1414, an act to make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes.

Based on this review, it appears that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,  
*Director.*

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of S. 1414 would have no inflationary impact on the prices and cost in the national economy.

#### DEPARTMENTAL REPORTS

S. 1414 was the subject of a report from the Department of Commerce, and the predecessor bills, H.R. 6275 and H.R. 9475, were the



subjects of reports from the Departments of Commerce, Justice, and the Interior. Copies of the reports follow herewith:

GENERAL COUNSEL  
OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., June 17, 1976.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in reply to your request for the views of this Department regarding S. 1414, an act "To make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes."

The bill would enable the Trust Territory of the Pacific Islands to receive Federal funds under the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, 16 U.S.C. 779-779f).

The Department of Commerce has no objection to S. 1414. Information available to the National Marine Fisheries Service indicates that under the present legislative formula the Trust Territories of the Pacific Islands would receive the minimum apportionment. At the present level of funding, this would be approximately \$19,000. Therefore, the impact of the Trust Territories on the apportionments to other States and Territories would be insignificant.

Enactment of this bill would not require an additional authorization of funds or personnel to NOAA's operations.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

J. T. SMITH II,  
*General Counsel.*

GENERAL COUNSEL  
DEPARTMENT OF COMMERCE,  
*Washington, D.C., April 30, 1976.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in reply to your request for the views of this Department regarding H.R. 6275, a bill "To make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes."

The bill would enable the Trust Territory of the Pacific Islands to receive Federal funds under the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, 16 U.S.C. 779-779f).

The Department of Commerce has no objection to H.R. 6275. Information available to the National Marine Fisheries Service indicates that under the present legislative formula the Trust Territories of the Pacific Islands would receive the minimum apportionment. At the present level of funding, this would be approximately \$19,000. Therefore, the impact of the Trust Territories on the apportionments to other States and Territories would be insignificant.

Enactment of this bill would not require an additional authorization of funds or personnel to NOAA's operations.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

J. T. SMITH,  
*General Counsel.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 6, 1976.*

HON. LEONOR K. SULLIVAN,  
*Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This responds to your request for the views of this Department on H.R. 9475, a bill "To make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes."

We have no objection to enactment of the bill.

H.R. 9475 would amend section 2 of the Commercial Fisheries Research and Development Act of 1964 (Public Law 88-309, 16 U.S.C. 779) to include the Trust Territory of the Pacific Islands (TTPI) in the definition of the word "State." The TTPI would thus be made eligible for benefits under the Act.

The Commercial Fisheries Research and Development Act of 1964 (hereinafter the 1964 Act) authorizes the Secretary of Commerce to provide grants to the States to carry out projects designed for the research into and development of commercial fisheries resources. The research and development thereunder is to enable the grantee to acquire knowledge of commercial fisheries resources and their environment, and to develop and apply methods and techniques to enhance such resources including their harvest, conservation and utilization.

The extension of this program to the TTPI would currently provide about \$19,000 annually to the territory in developing its commercial marine resources. This part of the Pacific has fishery potentials not fully utilized by the people of Micronesia, although some development is now in progress. The President's fiscal year 1977 budget for the Trust Territory includes an increase of \$27,100 for a total of \$604,000 for research on marine resources and research by the Micronesian Mariculture Demonstration Center. The extension of the 1964 Act to the TTPI could provide some assistance in developing the Micronesian fishing industry. Eligibility under the 1964 Act could aid the TTPI to become more self-sufficient through a more rapid development of its marine resources. However, the funding through the Trust Territory annual appropriations will continue to be the primary source of funding for their fisheries program.

We would point out that the U.S. territories—the Virgin Islands, Guam, and American Samoa—as well as the Commonwealth of Puerto Rico, are included in the definition of "State" under the 1964 Act.

The 1964 Act is administered by the Department of Commerce. It is our understanding that Commerce has no objection to the inclusion of the Trust Territory under the Act as provided by H.R. 9475.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,  
*Assistant Secretary of the Interior.*

GENERAL COUNSEL,  
DEPARTMENT OF COMMERCE,  
*Washington, D.C., March 23, 1976.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in reply to your request for the views of this Department regarding H.R. 9475, a bill "To make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes."

The bill would enable the Trust Territory of the Pacific Islands to receive Federal funds under the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, 16 U.S.C. 779-779f).

The Department of Commerce has no objection to H.R. 9475. Information available to the National Marine Fisheries Service indicates that under the present legislative formula the Trust Territories of the Pacific Islands would receive the minimum apportionment. At the present level of funding, this would be approximately \$19,000. Therefore, the impact of the Trust Territories on the apportionments to other States and Territories would be insignificant.

Enactment of this bill would not require an additional authorization of funds or personnel to NOAA's operations.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

J. T. SMITH,  
*General Counsel.*

DEPARTMENT OF JUSTICE,  
*Washington, D.C., November 5, 1975.*

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 9475, a bill "To make the Trust Territory of the Pacific Islands eligible to participate in certain Federal fisheries programs, and for other purposes."

The bill amends the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779). The Act presently supports research and development of commercial fisheries located in the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands and Guam. H.R. 9475 would amend the definition of the word "State" to add the Trust Territory of the Pacific Islands. This change would expand the coverage of the Act to include the Trust Territory.

The Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MICHAEL M. UHLMANN.

#### CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

#### COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

(78 Stat. 197-9; 16 U.S.C. 779 et seq.)

AN ACT To promote State commercial fishery research and development projects, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Commercial Fisheries Research and Development Act of 1964".

SEC. 2. As used in this Act, the term—

"Commercial fisheries" means any organization, individual, or group of organizations or individuals engaged in the harvesting, catching, processing, distribution, or sale of fish, shellfish, or fish products.

"Fiscal year" means the period beginning July 1 and ending June 30.

"Obligated" means the written approval by the Secretary of the Interior of a project submitted by the State agency pursuant to this Act.

"Project" means the program of research and development of the commercial fishery resources, including the construction of facilities by the States for the purposes of carrying out the provisions of this Act.

"Raw fish" means aquatic plants and animals.

"State" means the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, [and Guam.] *Guam, and the Trust Territory of the Pacific Islands.*

"State agency" means any department, agency, commission, or official of a State authorized under its laws to regulate commercial fisheries.

\* \* \* \* \*

SEC. 5. (a) Funds appropriated pursuant to section 4(a) shall be apportioned among the States, by the Secretary, on July 1 of each year or as soon as practicable thereafter, on a basis determined by the ratio which the average of the value of raw fish harvested by domestic commercial fishermen and received within the State (regardless where caught) for the three most recent calendar years for which data sat-



isfactory to the Secretary are available plus the average of the value to the manufacturer of manufactured and processed fishery merchandise manufactured within each State for the three most recent calendar years for which data satisfactory to the Secretary are available, bears to the total average value of all raw fish harvested by domestic commercial fishermen and received within the States (regardless where caught) and fishery merchandise manufactured and processed within the States for the three most recent calendar years for which data satisfactory to the Secretary are available. However, no State may receive an *initial* apportionment for any fiscal year of less than one-half of 1 per centum of funds or more than 6 per centum of the funds.

[(b) So much of any apportionment for any fiscal year which is not obligated during any year remains available for obligation to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unobligated at the end of that year, the sum is returned to the Treasury of the United States.]

(b) (1) *Except as provided in paragraph (2) of this subsection, so much of any apportionment for any fiscal year to any State which is not obligated during such year remains available for obligation to that State to carry out the purposes of this Act until the close of the succeeding fiscal year, and, if unobligated at the end of that year, the funds shall not be considered thereafter to be apportioned to that State and shall remain available until expended to carry out the purposes of this Act as determined by the Secretary without regard to any provision of subsection (a) of this section.*

(2) *If any State—*

(A) *notifies the Secretary that it does not wish to receive all or any part of any funds apportioned to it for any fiscal year pursuant to subsection (a) of this section, or*

(B) *returns to the Secretary funds received by it pursuant to any apportionment pursuant to such subsection (a).*

*such funds shall not be considered to be apportioned to that State and shall immediately be available, and remain available until expended, to carry out the purposes of this Act as determined by the Secretary without regard to any provision of such subsection (a). Any notification or return of funds made by any State pursuant to this paragraph is irrevocable.*

SEC. 6. (a) Any State desiring to avail itself of the benefits of this Act may, through its State agency, submit to the Secretary full plans, specifications, and estimates of any project proposed for that State. Items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed shall not exceed 10 per centum of the cost of the works, and shall be paid by the State as a part of its contribution to the total cost of the works. If the Secretary approves the plans, specifications, and estimates as being consistent with the purposes of this Act and in accordance with standards to be established by him, he shall notify the State agency. No part of any moneys appropriated pursuant to this Act may be obligated with respect to any project until the plans, specifications, and estimates have been submitted to and approved by the Secretary. The expenditure of funds authorized by this Act shall be applied only to approved projects, and if otherwise applied they shall be replaced by

the State before it may participate in any further assistance under this Act.

(b) If the Secretary approves the plans, specifications, and estimates for the project, he shall promptly notify the State agency and immediately set aside so much of the appropriation made available under section 4(a) of this Act as represents the Federal share payable under this Act on account of the project, which sum shall not exceed 75 per centum of the total estimated cost of the project.

(c) When the Secretary determines that a project approved by him has been completed, *or where he otherwise deems it appropriate*, he shall cause to be paid to the proper authority of the State, the Federal share of the project. [The Secretary may, if he determines that the project is being conducted in compliance with the approved plans and specifications, make periodic payments on the project as it progresses, but these payments, together with previous payments, shall not exceed the United States share of the project in conformity with the plans and specifications. The Secretary and each State agency may determine jointly at what time and in what amounts progress payments are made.] All payments shall be made to the official or depository, as may be designated by the State agency and authorized under the laws of the State to receive public funds of the State.

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